

NOTICE OF EMERGENCY REGULATIONS

California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code (GC) Section 12838.5 and Penal Code (PC) Section 5058, and the rulemaking authority granted by PC Section 5058.3, in order to implement, interpret and make specific PC Section 5054, proposes to amend sections 3000, 3043.6 and 3375 and to adopt new sections 3077, 3077.1, 3077.2, 3077.3 and 3077.4 of the California Code of Regulations (CCR), Title 15 concerning Senate Bill (SB) 618 and the transfer of inmate assessment responsibilities to the county court and probation departments.

PUBLIC HEARING:

Date and Time: **April 21, 2009 – 9:00 a.m. to 10:00 a.m.**
Place: Department of Corrections and Rehabilitation
10000 Goethe Road
Pilot Hill Conference Room (Room 118)
Sacramento, CA 95827
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close, **April 21, 2009, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 255-5601, or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 255-5500**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**D. Hawkins
Regulation and Policy Management Branch
Telephone (916) 255-5338**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Lawrence H. Cook
Division of Community Partnerships
Telephone (916) 445-3404**

LOCAL MANDATES:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to GC Section 17561.

FISCAL IMPACT STATEMENT:

- Cost to any local agency or school district that is required to be reimbursed in accordance with GC Sections 17500 through 17630: *None*
- Cost or savings to any state agency: *None – No fiscal impact. In Fiscal Year 2007-08, a \$5.233 million Reducing Recidivism Budget Change Proposal providing the funding for the SB 618 program was approved and incorporated into the current Fiscal Year 2008-09 budget.*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION:

The Department has determined that the proposed regulation will have no affect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to GC Section 11340. This action:

- Puts into regulations the provisions and authority of SB 618 (2005/2006 session), which added PC Section 1203.8, allows the CDCR to enter into an agreement with up to three counties in the State of California. This agreement transfers the responsibility of the risk and needs assessment for eligible non-violent offenders to the county probation department and courts from which the inmate received a conviction and sentence to state prison. SB 618 supports successful reintegration of parolees into society by developing an early assessment of the offender's risks and needs prior to sentencing and transfer into the state prison system. This transfer of the assessment function from the CDCR to the community in which an offender committed his or her crime and to which the parolee will be required by statute to return to on supervised parole, will better enable each offender to become a contributing member of society which in turn will improve public safety in the community.
- Defines SB 618 Participants and the SB 618 Program.
- Authorizes a participating county to develop a multi-agency plan that will prepare and enhance non-violent felony offenders' successful reentry back into the community. This plan will be developed by, and having the concurrence of, the presiding judge, the chief probation officer, the district attorney, the local custodial

agency, and the public defender, or their designees for submission to the board of supervisors for its approval.

- Authorizes and defines the purpose of the SB 618 Participant's Life Plan.
- Places SB 618 Participants to the top of a receiving institutions programming waiting lists in the event the institution's vocational/training program is full.
- Allows for medical, dental and mental health assessments, and the classification of SB 618 Participants prior to CDCR reception.
- Additionally, this action is necessary to accommodate the February 5, 2007 agreement with the County of San Diego, to implement the provisions of SB 618, Transfer of Assessment Responsibilities Pilot Program. This Pilot Program, which transferred the assessment authority for eligible non-violent offenders to the County of San Diego, outlined the operational plans of the County of San Diego working in conjunction with the CDCR's Richard J. Donovan Reception Center and Correctional Facility (RJD) and the California Institution for Women (CIW). The effective dates of this pilot program were not to exceed 24 months and will end on February 5, 2009. In order to continue the program without interruption, it is necessary that the CDCR promulgate and adopt permanent regulations before the Pilot Program effective ending date of February 5, 2009 is realized.